

BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA
DOCKET NO. 2016- -C

Petition of

UNITED TELEPHONE COMPANY OF
THE CAROLINAS LLC D/B/A
CENTURYLINK, FRONTIER
COMMUNICATIONS OF THE
CAROLINAS, INC., LEAD PETITIONERS

AND DEX MEDIA, INC.,

For Full or Partial Waiver from Directory
Requirements of SCCR § 103-631

PETITION FOR WAIVER FROM SCCR
§ 103-631

I. INTRODUCTION.

Lead Petitioners United Telephone Company of the Carolinas LLC d/b/a CenturyLink (“CenturyLink”) and Frontier Communications of the Carolinas, Inc. (“Frontier”) along with Dex Media, Inc. (“Dex Media”)¹ (CenturyLink, Frontier and Dex, collectively, “Petitioners”) respectfully file this petition (“Petition”) seeking a waiver of S.C. Code Reg. § 103-631 (“Rule”), which requires telecommunications utilities to “publish” and “distribute” to all customers a directory at “regular” intervals. As described below, Dex Media seeks to transition all forms of directories to a digital format, including residential and business white pages, yellow pages, and

¹ Dex Media is the “official” publisher of directories for certain CenturyLink and Frontier telephone operating companies in South Carolina pursuant to publishing contracts and must publish in accordance with the Commission’s regulations.

other information traditionally printed at the front of those books. The transition will take place over time, based on customer demand for and usage of printed products, and will include continued provision of printed directories for a reasonable period of time upon a customer's request until the transition to digital directories is complete.

Both nationally and in South Carolina, the markets for telecommunications, information and directories have undergone revolutionary changes since this Commission first adopted directory and listing regulations. Over the past several years, there has been a proliferation of alternative sources for obtaining telephone numbers and other information traditionally found in printed directories. Print directories are no longer valued by all consumers as they once were and are often viewed as wasteful. In light of these circumstances, it is appropriate to pursue environmentally sound options that would better serve the public interest and constitute a more efficient use of resources. The Commission's telecommunications rules provide that a rule may be waived upon a finding by the Commission that a waiver would not be contrary to the public interest (S.C. Code Reg. § 103-601). The Petitioners respectfully submit that a waiver of the directory publishing Rule is in the public interest, given the highly competitive nature of directory services.

II. DESCRIPTION OF CONTEMPLATED DIRECTORY CHANGES AND CONDITIONS OF WAIVER.

As consumers have come to rely more on the Internet and less on print media for name and business searches, Dex Media has satisfied evolving consumer needs by offering digital platforms such as DexKnows.com and Dex Mobile in addition to traditional printed directories. Dex Media also publishes its print directories in a digital format at www.DexPages.com, using

the traditional layout of its printed white and yellow pages. In 2010, Dex Media began to provide residential white pages online with print provided upon request to customers in a few states, and has expanded that practice to portions of nearly 40 states. During this time, Dex Media continued to publish paper yellow and business white page directories, which it continued to deliver on a “saturation” basis—that is, to every home and business in the areas served by the directories.

Petitioners seek a waiver from the Commission such that, going forward, Dex Media will begin to reduce saturation delivery of paper directories to some households and businesses in some geographic markets in the state, including some customers of CenturyLink and Frontier. There would not be a “flash cut”; changes would be implemented based on the needs in a particular market. All subscribers will have access to the digital directory and those who request a print directory will receive one at no charge. The changes described here would be implemented only on a market-by-market basis. No market would be fully digital; some quantities of paper directories will continue to be distributed.

CenturyLink and Frontier will include a bill message advising their respective customers of the digital directory web address and that paper copies of that market’s directories will be available upon request at no charge. The notice will include a toll-free number for customers to use to make a request. Importantly, customers will continue to have access to paper copies on request as a transition, until the number of requests becomes so miniscule as to make the costs per book prohibitive. This request is similar to, but broader than the waiver the Commission

granted to Frontier in 2013 with respect to residential white pages, but as discussed below, the circumstances justifying grant of that waiver are equally true today.²

III. MARKET CONDITIONS DRIVING NEED FOR WAIVER.

The static and noncompetitive environment for telephonic communications and information services that existed when the Commission's directory rules were initially adopted bears little resemblance to the highly competitive world of today. Consumers today can obtain voice service from ILECs, CLECs in some areas, CMRS³ companies serving over 95% of the U.S. population, and by VoIP providers over cable or wireless Internet networks. As observed in the recent Commission proceeding on wireless competition, in 2008 nearly 80% of adults lived in a household with a landline phone.⁴ By the end of 2014, just six years later, less than 53% of adults lived in a household with a landline phone. Adults living in wireless-only households rose from 18.4% in 2008 to 44.1% in 2014. *Id.* And in a similar period, South Carolinians' subscription to voice service provided by ILECs declined from 1.8 million⁵ to just 1 million⁶ at the end of 2014, while subscribership to mobile voice increased from 3.5 million⁷ to 4.5 million.⁸

What was not considered in the Commission's recent wireless proceeding was the huge impact that the migration of consumers from landline to wireless services is having on traditional printed directories, particularly the directories provided by an ILEC contractor, such as Dex

² See Order Granting Petition for Waiver dated January 13, 2013 in Docket No. 2012-359-C.

³ Commercial Mobile Radio Service, also called "cellular" or "wireless."

⁴ See Order issued on January 26, 2016 in Docket No. 2015-290-C at p. 26.

⁵ Table 13, https://apps.fcc.gov/edocs_public/attachmatch/DOC-299052A1.pdf

⁶ SC Subscriptions, Reference 5, <https://www.fcc.gov/file/3657/download>

⁷ Table 17, https://apps.fcc.gov/edocs_public/attachmatch/DOC-299052A1.pdf

⁸ SC Subscriptions, Reference 1, <https://www.fcc.gov/file/3657/download>

Media. Because only wireless listings are not typically available for inclusion in the traditional directories—especially residential listings—directories are necessarily much less complete today given the shift of consumers to CMRS. Accordingly, consumers today are much less likely to rely on print directories for basic number lookups and much more likely to turn to digital alternatives, especially on their cellphones. And to the extent consumers need or demand listings, consumer rights information, or directories of some sort, competition and telecommunications market forces are more than adequate today to ensure their needs are met without the need for traditional printed directories supplied by the incumbent phone company.

Today, any household with a device that can connect to the Internet—whether dial-up or high-speed—has the ability to obtain directory information from a wide variety of sources other than print directories, such as Google, Avantar White & Yellow Pages (avantar.com), DexPages.com, and Dexknows.com. Hundreds of mobile “smartphone” applications (“apps”) perform various types of searches or directory lookup. Many of them use location information to make the search results more relevant to the user. As with traditional yellow pages directories, these applications are advertiser-supported, so that consumers do not pay for searches or lookups. According to the most recent Pew Research report, 80% of adults have broadband Internet access today nationally, up from 78% in 2013.⁹ The most recent Census Bureau data show that even two years ago about 85% of South Carolina households have a computer and over 70% use high-speed Internet access.¹⁰

⁹ Pew Research Center, December 21, 2015, “Home Broadband 2015,” available at: <http://www.pewinternet.org/2015/12/21/2015/Home-Broadband-2015/>.

¹⁰ U.S. Census Bureau, Computer and Internet Use in the United States: 2013, American Community Survey Reports at 10 (Nov 2014 (2013 data))(<http://www.census.gov/history/pdf/2013computeruse.pdf>). Many households with computers that lack high-speed internet access are likely to have dial-up or other lower-speed access to the Internet.

Even households without Internet access have alternative, competitive options to print directories by using their telephones. They can call traditional directory assistance for a small charge per listing. And they can also call one of the toll-free information services available today. The current market leader, which reportedly handles millions of calls every month, is 1-800-FREE-411. (<http://en.wikipedia.org/wiki/800-The-Info>). Any home with a telephone can call toll-free and get a listing for free, after listening to a short advertisement.

Thus, today, there is not a single home or business in America with a phone that does not have access to a competitive and free means to look up telephone numbers and other information provided in traditional regulated print directories. And for all but a small percentage—10% or so—there are hundreds of free alternatives online and on mobile app stores.

IV. STATES' REGULATORY RESPONSE TO DIRECTORY USAGE TRENDS TO DATE.

In response to the powerful technological changes and usage trends noted above, the majority of states that once required saturation delivery of printed white pages have modified or eliminated their requirements.¹¹ Since 2012, Dex Media has delivered residential white pages directories only upon request in portions of about 30 states.¹² Transition to delivery of printed

¹¹ Including: Wisconsin (Docket No. 6720-GF-108), Missouri (Docket No. IE-2009-0357), Ohio (Docket No. 09-0042-TP-WVR), New Mexico (NMPRC Case No. 12-00237-UT), Washington (WUTC Dkt. UT-120451), Kentucky (Docket No. 2009-00480), Florida (Docket No. 090082-TL), North Carolina (Docket No. P-55, Sub 1767), Kansas (Docket No. 11-SWBT-270-MIS), Colorado (CPUC Docket No. 12M-817T), Alabama (Docket No. 15957), and most recently Minnesota (MPUC Docket No. P-999/R-13-459). Likewise, Verizon has pursued waiver requests in several states, including California (Resolution T-17302), New York (Case No. 10-C-0215), Virginia (Case No. PUC 2010-00046), and New Jersey (Docket No. TO10040255). Louisiana modified its rule to permit upon request delivery of white pages. Order No. R-31825, In re: Possible Amendment to Section 501 A (c) and (e) of the White Page Directory Distribution Requirement, (LA PSC, rel. June 20, 2012).

¹² Including: Arizona, California, Colorado, Connecticut, the District of Columbia, Delaware, Florida, Idaho, Indiana, Massachusetts, Maryland, Michigan, Minnesota, Nebraska, Nevada, New Jersey, New York, New Mexico, North Carolina, Ohio, Oregon, Pennsylvania, Rhode Island, Texas, Utah, Virginia, and Washington.

residential white pages only upon request is market-specific and usually starts with more urban markets where demand is lowest and cost and environmental savings are greatest.

What has been particularly remarkable about discontinuing the 100-year old practice of saturation delivery of residential white pages in so many markets is the scant consumer attention it has generated. It seems hardly anybody noticed. In not one of the dozens of states and hundreds of markets where saturation delivery ended did consumers raise any significant complaint. In nearly all of the “upon request” states, well under 1% of Dex Media’s customer base requested a printed white pages directory in 2015. In no state was it more than 1.5%. The easy transition from saturation delivery to upon-request delivery of white pages directories in dozens of markets across the country demonstrates that relaxation or elimination of the directory Rule serves the public interest by allowing publishers to satisfy consumer needs and expectations at a lower cost in a much more environmentally-conscious manner.

V. LEGAL AND POLICY GROUNDS FOR THE PETITION.

The Commission has great leeway as to the scope and specifics of regulation of telephone directories. *See, e.g.*, S.C. Code § 58-3-140 (“[T]he commission is vested with power and jurisdiction to ... fix just and reasonable ... regulations [and] practices [to be] followed by every public utility...”). There are no statutes that require directories.¹³ Thus, as industry and consumer behaviors change over time, this Commission has the authority to waive its directory Rule, so as to best serve the public interest. Digital media will not only suffice; it is already serving the public widely and well. Indeed, in 2013 the Commission granted Frontier a waiver

¹³ S.C. Code §§ 58-9-10 and 58-9-576 require provision of “listings,” but the provision of listings by CenturyLink and Frontier will continue unaffected in any way by this petition.

similar to what the Petitioners seek here with respect to residential white pages.¹⁴ While this request would allow digital publication for the entire white pages and yellow pages directories, the same rationale justifies this relief.

The Internet, used by 90% of all adults, provides a rich and diverse source of resources to look up telephone numbers free of charge. Even the first purpose of white pages directories—subscriber and number lookup—is no longer essential. At first blush, this may seem surprising. But the VoIP and cellular numbers that serve substantial numbers of consumers today are not even listed in traditional directories. Thus, when looking at the recent history, data, and structure of the market today, it is plain to see that for number lookups, traditional phone books are not only unnecessary, they are no longer used or even particularly useful.

Conclusive evidence that printed name and number directories are no longer needed to use telephone networks comes from the experience of the cellular industry. From the very beginning and continuing to today, wireless phone numbers have not been listed or published in any directory. If paper directories and printed customer rights notices were still considered essential to use of telecommunications networks, then CMRS would not have been widely adopted, and wireless substitution would not be at the levels we see today absent a CMRS directory resource. But exactly the opposite has occurred; wireless phones have grown to over 90% of the market without a CMRS directory resource, while switched access lines have declined.

¹⁴ See Order Granting Petition for Waiver dated January 15, 2013 in Docket No. 2012-359-C. The Commission later rescinded the waiver until such time as Frontier was ready to comply with its conditions and, ultimately, Frontier did not make a transition to upon request at that time.

Because as many as 70% of households still use the yellow pages to find local businesses, this is a substantial benefit to consumers and to the local businesses who need to reach customers in their area. In fact, it is estimated that yellow pages still generate hundreds of billions of dollars of revenues for local businesses in the U.S.¹⁵ But while the yellow pages are an important resource for people and advertising, outmoded regulation can undermine this resource. Flexibility to publish and distribute directories efficiently and economically based on actual demand for them is needed. Dex Media and the LECs it serves have sought similar flexibility from several other states. To date, every state that has considered such a request has granted it.¹⁶

Moreover, Dex Media needs greater flexibility to address environmental factors. It is incumbent on all South Carolinians to use finite natural resources wisely and to make reasonable conservation efforts. Dex Media wants to continue to deliver print products to customers who value and use them. That is “utility,” not “waste.” But delivery of millions pounds of content that likely will never be used is inherently wasteful of both scarce dollars and natural resources. To avoid this undue waste in rapidly changing markets, Dex Media needs the regulatory flexibility to switch to digital products, as and when it is prudent.

¹⁵ While printed directories are shrinking, as electronic searches proliferate, the industry still prints 422 million directories a year, and businesses still pay almost \$7 billion to advertise in them, as *Bloomberg Businessweek* reported in 2012. <http://www.bloomberg.com/bw/articles/2012-03-22/the-golden-allure-of-the-yellow-pages#p1>.

¹⁶ So far those states include: Illinois, Minnesota, New York, Oregon, South Dakota, and Washington. Links to the rules or orders can be found here: <https://www.icc.illinois.gov/docket/files.aspx?no=16-0066&docId=243467>, <https://www.revisor.mn.gov/rules/?id=7810.2950>, <http://documents.dps.ny.gov/public/MatterManagement/CaseMaster.aspx?Mattercaseno=16-C-0190>, <http://apps.puc.state.or.us/edockets/docket.asp?DocketID=20002>, <http://www.puc.sd.gov/commission/orders/telecom/2016/TC15-069.pdf>, <http://apps.leg.wa.gov/wac/default.aspx?cite=480-120-251>.

Finally, there are hundreds of potential sources for the information that is contained in directories, including other print directory publishers. But in any given locality in South Carolina, only one of those sources is subject to the Commission's regulations.¹⁷ That is the directory of the serving ILEC—Dex Media in the case of CenturyLink and Frontier. Thus, apart from distorting and inhibiting a competitive directory service market, the legacy regulations hinder fair competition in telecommunications markets and are outmoded, because the providers that now serve the majority of homes and business are not subject to those regulations.¹⁸

VII. CONCLUSION.

For the foregoing reasons,¹⁹ compliance with S.C. Code Reg. § 103-631 introduces unusual difficulty for Petitioners, and a waiver is appropriate and not contrary to the public interest. Moreover the service regulated by the Rule, provision of directories, is fully competitive today. Accordingly, the Petition should be granted in full, waiving the Rule's requirements to produce a "telephone directory that is published at regular intervals" and to "distribut[e] a copy of each directory to all customers". Alternatively, the Rule should be waived in sufficient part to permit the Petitioners part to comply via digital publication, rather than

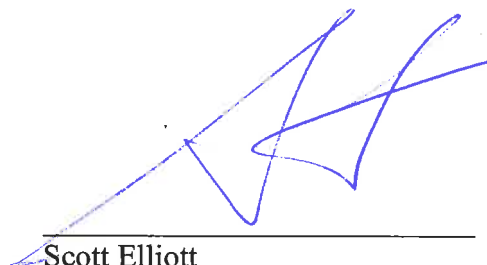
¹⁷ While Section 253 of the 1996 Act reserves to the states the power to "protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers," they must do so "on a competitively neutral basis." *Id.* (emphasis added). The Commission's directory rules, especially if interpreted or applied to mandate print rather than allow digital formats, are not competitively neutral.

¹⁸As the FCC noted in an order late last year, many of its regulations had become "outmoded" given the large percentages of the population that have switched to VoIP or cellular service only and the minority of households that still subscribe to traditional ILEC service. It further noted that many of the "outdated legacy regulations" for which it granted forbearance "were based on technological and market conditions that differ from today." *See* Memorandum Opinion and Order, *In the Matter of Petition of USTelecom for Forbearance from Enforcement of Obsolete ILEC Legacy Regulations*, ¶ 2 (WC Dkt. 14-192, rel. Dec. 28, 2015)("USTelecom Order").

¹⁹ The foregoing factual underpinning of this petition is established and elaborated on in the Verified Testimony Of Jeronimos Konidaris In Support Of Petition For Waiver From SCCR § 103-631, filed with this Petition.

requiring publication or saturation delivery exclusively in paper form, while making paper copies available at no cost to requesting customers.

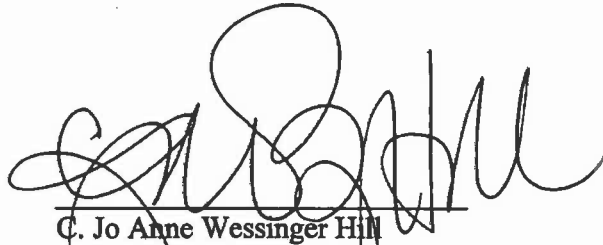
Respectfully submitted this _____ day of November, 2016.



Scott Elliott
Elliott & Elliott, P.A.
1508 Lady Street
Columbia, SC 29201
803-771-0555 (T)
803-771-8010 (F)
selliott@elliottlaw.us

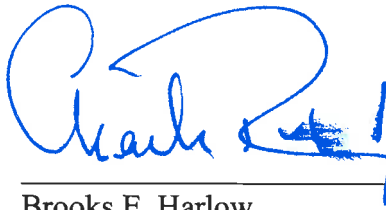
Jeanne Stockman
Century Link
14111 Capital Boulevard
Wake Forest, NC 27587
919-554-7621 (T)
919-554-7913 (F)
jeanne.w.stockman@centurylink.com

*Attorneys for United Telephone Company of the
Carolinas LLC d/b/a CenturyLink*



C. Jo Anne Wessinger Hill
Richardson Plowden and Robinson, P.A.
Post Office Drawer 7788
Columbia, SC 29202
Phone: 803-771-4400
Fax: 803-771-0016
Email: jhill@richardsonplowden.com

*Attorney for Frontier Communications of the
Carolinas, Inc.*



Brooks E. Harlow
Lukas, Nace, Gutierrez & Sachs, LLP
8300 Greensboro Drive
Suite 1200
McLean, VA 22102
Tel: (703) 584-8680
Fax (703) 584-8696

Charles L.A. Terreni
Terreni Law Firm, LLC
1508 Lady Street
Columbia, South Carolina 29202
Tel. (803) 771-7228
Fax. (803) 771-8228
Email: charles.terreni@terrenilaw.com
SC Bar No. 15235

Attorneys for Dex Media, Inc.